

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

In the matter of:)	DOCKET NO. S-21107A-20-0180
EDWARD EUGENE ENGEL a.k.a. EDDY)	NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, AND ORDER FOR ADMINISTRATIVE PENALTIES
ENGEL a.k.a. ED ENGEL and SHARA)	
ENGEL, husband and wife,)	
ROSE MEMBER CAPITAL GROUP, LLC,)	
a Colorado limited liability company,)	
BIOMED INET, LLC, an Arizona limited)	
liability company,)	
Respondents.)	

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents Edward Eugene Engel and BioMed iNet, LLC have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division also alleges that Edward Eugene Engel and Rose Member Capital Group, LLC are persons controlling BioMed iNet, LLC within the meaning of A.R.S. § 44-1999(B), so that they are jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as BioMed iNet, LLC for its violations of the antifraud provisions of the Securities Act.

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. At all relevant times, Edward Eugene Engel ("Engel") has been a resident of Arizona.

3. Shara Engel ("Respondent Spouse") was at all relevant times the spouse of Respondent Engel. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C).

4. At all relevant times, Engel was acting for his own benefit and on behalf of and for the benefit of the marital community.

5. BioMed iNet, LLC ("BioMed") is a Phoenix-based, manager-managed limited liability company organized by Engel under the laws of the state of Arizona on or around September 22, 2015.

6. Rose Member Capital Group, LLC ("Rose") has been the sole manager of BioMed at all times.

7. Rose is a member-managed limited liability company organized by Engel under the laws of the state of Colorado on or around May 26, 2009.

8. Engel was the managing member of Rose at all relevant times.

9. Engel, Rose, and BioMed may be referred to collectively as "Respondents."

10. Respondents have never been registered or licensed with the Commission in any capacity.

III.

FACTS

11. Between September 2014 and January 2017, Engel and BioMed sold securities in the form of membership interests in Biomed to at least two investors ("Investors") in exchange for at least \$260,000.

The 2014 Investor

12. In September and October 2014, one of the Investors ("2014 Investor") purchased Biomed membership units from Engel and Biomed by wiring a total of \$60,000 to a Wells Fargo bank account controlled by Engel in the name of Treble Investments, LLC ("the Treble Account").

13. The 2014 Investor was not accredited.

14. Prior to the investments, Engel represented to the 2014 Investor that his money would be used to acquire medical device companies and generate a return following an initial public offering.

15. Engel also told the 2014 Investor that his investment proceeds would be held in a pool earning a 4% return until acquisitions were identified.

16. Engel also represented to the 2014 Investor that his investment proceeds would be part of a "million-dollar pool."

17. The 2014 Investor understood that he had no control or decision-making authority with respect to his investment in Biomed, and that the company was entirely controlled by Engel.

18. Engel misappropriated certain proceeds invested by the 2014 Investor.

19. Less than one week after receiving a \$47,000 wire from the 2014 Investor, Engel transferred nearly all of the funds to another bank account controlled by Engel.

20. By November 13, 2014, nearly all of the \$47,000 had been withdrawn in small amounts or paid to various individuals.

The 2015 Investor

21. Between September 2015 and January 2017, another Investor ("2015 Investor") purchased Biomed membership units from Engel and Biomed by wiring a total of \$200,000 to the Treble Account.

22. Prior to his investments, the 2015 Investor was told by Engel that BioMed was in the business of acquiring small medical companies.

1 23. Engel also told the 2015 Investor, prior to his investments, that his investment
2 proceeds would be used to acquire medical companies as well as the rights to medical devices that
3 could be monitored through the internet.

4 24. Engel also told the 2015 Investor that his investment proceeds would be held in a pool
5 earning a 4% return until acquisitions were identified.

6 25. The 2015 Investor had no input or involvement in Biomed's operations, and he
7 understood that he had no authority to do so.

8 26. Engel also represented to the 2015 Investor that a \$1,700,000 offering had been "fully
9 subscribed" and that his \$200,000 would be part of the \$1,700,000.

10 27. Engel falsely represented to the 2015 Investor that he had prior investment adviser
11 experience.

12 28. Engel also falsely represented to the 2015 Investor that he had an extensive
13 background as a stock broker, and represented that he had successfully run a similar acquisition
14 company in the oil and gas industry.

15 29. On September 17, 2015, the 2015 Investor made his first investment by wiring
16 \$100,000 to the Treble Account.

17 30. Engel falsely represented to the 2015 Investor that Biomed was already formed and
18 established prior to his first investment on September 17, 2015.

19 31. By October 8, 2015, most of the 2015 Investor's initial investment had been
20 misappropriated.

21 32. At least \$42,660.69 of the 2015 Investor's initial investment was used to repay an
22 investor in one of Engel's other companies.

23 33. At least \$24,470.69 of the 2015 Investor's initial investment was paid to the Maricopa
24 County Sheriff's Office.

1 34. On April 12, 2016, the 2015 Investor asked Engel about the value of his investment.
2 Engel responded that Biomed carried the \$100,000 investment plus 4% interest on its books, and that
3 his investment was redeemable with written notice.

4 35. Between November 2015 and October 2016, Engel told the 2015 Investor at various
5 times that Biomed was searching for acquisitions and was close to entering into deals.

6 36. From October 2016 to January 2017, the 2015 Investor purchased additional
7 membership units in Biomed by wiring a total of \$100,000 to the Treble Account.

8 37. Engel and Biomed misappropriated certain proceeds from the 2015 Investor's
9 investments in 2016 and 2017.

10 38. Respondents did not disclose to the Investors that on or around October 16, 1998,
11 Engel was indicted in Maricopa County Superior Court on:

- 12 a) One count of felony fraudulent schemes and artifices;
13 b) Fourteen counts of felony theft; and
14 c) Twelve counts of felony forgery.

15 39. Respondents did not disclose to the Investors that on or around April 17, 2001, Engel
16 was sentenced to imprisonment for four years and restitution totaling \$827,500 after pleading guilty
17 to felony theft.

18 40. Respondents also did not disclose to the Investors that, as of April 2020, Engel had
19 paid only \$724.56 in restitution and still owed \$950,226.17.

20 41. Neither of the Investors have received any repayment of their investments, or any
21 other payments from Respondents.

22 **IV.**

23 **VIOLATION OF A.R.S. § 44-1841**

24 **(Offer or Sale of Unregistered Securities)**

25 42. From on or about September 2014 to January 2017, Respondents offered or sold
26 securities in the form of investment contracts, within or from Arizona.

43. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

44. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

45. Respondents offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

46. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

47. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

- a) Misappropriating the Investors' investment proceeds;
- b) Falsely representing Engel as having experience as a stock broker and/or investment adviser;
- c) Portraying Engel as successful and experienced in the financial industry while misleadingly omitting Engel's criminal history and unpaid restitution;
- d) Representing to the 2015 Investor that Respondents were searching for acquisitions despite the fact that they had already misappropriated his initial investment;

1 e) Falsely representing to the Investors that their investment proceeds would be
2 used to acquire medical device companies and product rights; and

3 f) Selling membership interests to the Investors in a company that did not yet exist.

4 48. This conduct violates A.R.S. § 44-1991.

5 **VII.**

6 **CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999**

7 1. From at least September 2014 through at least January 2017, Engel has been and/or
8 held himself out as the manager of Rose, which is the manager of Biomed.

9 2. From at least September 2014 through at least January 2017, Engel directly or
10 indirectly controlled Biomed within the meaning of A.R.S. § 44-1999. Therefore, Engel is jointly
11 and severally liable to the same extent as Biomed for its violations of A.R.S. § 44-1991 from at least
12 September 2014 through at least January 2017.

13 **XIII.**

14 **REQUESTED RELIEF**

15 The Division requests that the Commission grant the following relief:

16 1. Order Respondents to permanently cease and desist from violating the Securities Act,
17 pursuant to A.R.S. § 44-2032;

18 2. Order Respondents to take affirmative action to correct the conditions resulting from
19 Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to
20 A.R.S. § 44-2032;

21 3. Order Respondents to pay the state of Arizona administrative penalties of up to five
22 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

23 4. Order that Respondent and Respondent Spouse be subject to any order of restitution,
24 rescission, administrative penalties, or other appropriate affirmative action.

25 5. Order any other relief that the Commission deems appropriate.
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XIV.**HEARING OPPORTUNITY**

Each Respondent including Respondent Spouse may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting Respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation. Additional information about the administrative action procedure may be found at <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>.

XV.**ANSWER REQUIREMENT**

Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing, the requesting Respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona

1 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be
2 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site
3 at <http://www.azcc.gov/divisions/hearings/docket.asp>.

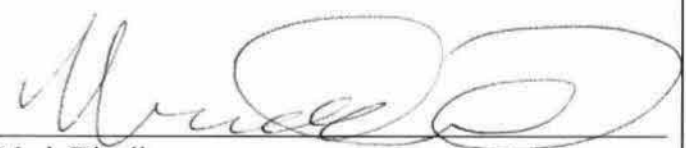
4 Additionally, the answering Respondent must serve the Answer upon the Division. Pursuant
5 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
6 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
7 addressed to Chris Nichols.

8 The Answer shall contain an admission or denial of each allegation in this Notice and the
9 original signature of the answering respondent or respondent's attorney. A statement of a lack of
10 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
11 denied shall be considered admitted.

12 When the answering Respondent intends in good faith to deny only a part or a qualification
13 of an allegation, the Respondent shall specify that part or qualification of the allegation and shall
14 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

15 The officer presiding over the hearing may grant relief from the requirement to file an Answer
16 for good cause shown.

17 Dated this 17th day of June, 2020.

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21 Mark Dinell
22 Director of Securities
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